

Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
Billed Party Preference for)
InterLATA 0+ Calls)

CC Docket No. 92-17

To: The Commission

COMMENTS OF THE INTELICALL COMPANIES

THE INTELICALL COMPANIES

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SUMMARY

The time has come to put billed party preference ("BPP") behind us. The Intellicall Companies ("Intellicall") wholeheartedly support the Commission's tentative conclusion that the exorbitant costs of implementing BPP significantly outweigh its purported benefits. Imposing the economic costs of BPP upon consumers would have substantially raised the rates for operator services, and substantially decreased the number of providers and the diversity of services.

Intellicall supports the Commission's adoption of benchmarks under which rates would be considered reasonable. Intellicall also concurs with the concept that those charging in excess of reasonable benchmarks provide some sort of additional notification to consumers. However, Intellicall urges the Commission to set the benchmark high enough that operator service providers ("OSPs") charging reasonable rates are not penalized by such a requirement.

Moreover, Intellicall urges the Commission to be cautious in adopting specific rate quotes on all non-sent paid calls, or imposing specific automatic rate quotes for non-sent paid calls from store-and-forward payphones incorporating the operator capability.¹ To provide these automatic rate quotes at the

¹ The pay telephone providers using store-and-forward technology are considered "OSPs." The store-and-forward capability is essentially an automated operator system contained in the payphone itself.

levels of granularity suggested by the Commission requires substantial amounts of memory not contained in the present pay telephones and, as such, would both require store-and-forward pay telephone manufacturers to incur huge costs to add this type of capability in those units which are already in production or installed and significantly affect the efficiency and reliability of the phones.

To the extent any type of automatic rate disclosure is necessary, the Commission should reject the proposed requirement that operator service providers (which would include payphone based providers) automatically inform the consumers of the total charges for which they would be liable for the initial rate period and each subsequent rate period, if those charges exceed the proposed benchmark. Instead, the Commission should adopt maximum- and average-rate alternatives suggested herein. These alternatives would address the Commission's general objectives, while avoiding tremendous cash outlays, stranded investments, and widespread dislocations that would result from the imposition of a specific per non-sent paid call charge rate quote.

**Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Billed Party Preference for)	CC Docket No. 92-77
InterLATA 0+ Calls)	

TO: The Commission

COMMENTS OF THE INTELlicall COMPANIES

The Intellicall Companies ("Intellicall"), by and through their undersigned counsel, hereby submit their comments in response to the Federal Communications Commission's (the "Commission") Second Further Notice of Proposed Rulemaking ("Second NPRM") in CC Docket No. 92-77.² These comments focus on the proposed benchmark for operator service provider ("OSP") rates, and the proposal that OSPs whose charges exceed the Commission's proposed benchmark, automatically disclose their rates before connecting a call.

Statement of Interest

The Intellicall Companies include Intellicall, Inc. and its subsidiary company, Intellicall Operator Services, Inc.

² *In the Matter of Billed Party Preference for InterLATA 0+ Calls, Second Further Notice of Proposed Rulemaking* (rel. June 6, 1996).

Intellicall, Inc. is a leading provider of equipment to the customer-owned pay telephone service ("COPTS") industry. It has sold over 200,000 "smart" pay telephones for use in forty-six states, of which over 60,000 use store-and-forward technology.³ More recently, it has introduced a family of "smart card" reading debit phones for application in the international market accompanied by intelligent network platforms that are operational in Argentina, Thailand, Sri Lanka, Indonesia, and other developing countries.

Intellicall Operator Services, Inc. provides network-based operator and prepaid services throughout the United States. Its services are offered from pay telephones, hotels, hospitals, and other locations serving the transient marketplace.

As manufacturers of store-and-forward pay telephones which offer operator services and, as a network-based provider of operator services, Intellicall continues to be vitally interested in the outcome of the instant proceeding.⁴

³ The term "store-and-forward" refers to the pay telephone's ability to temporarily "store" limited information on such matters as length, date and time of the call and billing number, and, at a later time, "forward" this information to remote locations for call rating, billing, and collection. Typically, "store-and-forward" payphones contain circuit boards which enable the phones to offer consumers a wide array of services and functions without the need or expense of "live" operators or the same degree of telephone network usage as that required by local exchange carrier ("LEC") payphones.

⁴ The Intellicall Companies have been active participants in this proceeding, having filed comments and replies in
Continued on following page

Intellicall notes that consumers have already realized substantial benefits through the availability of advanced store-and-forward payphones. Such equipment (a) significantly expands consumer options, (b) increases consumer convenience, and (c) reduces costs to the general rate-paying public by making a more efficient use of the local exchange network. Store-and-forward equipment generally does not require the same degree of labor or network resources as network-based, "live" operator systems. To illustrate, when a caller dials "0" or "0+" on this equipment, the telephone prompts the caller to input the called number, select the type of call the caller desires to place and, where appropriate, may record and verify the name of the calling party. All of this occurs before the network is accessed. No "live" operator is required. This means that every collect call placed from a payphone using "store-and-forward" technology is provided in a more efficient manner than through the total network approach employed by the LECs and IXC's.

These efficiency gains ultimately benefit both transient consumers and rate payers. Moreover, the mere presence of this technology in the marketplace generates social benefits. The LECs only recently began their own deployment of such automated technology in certain areas, notwithstanding its availability for

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response to the Commission's prior notices of proposed rulemaking See, e.g., Comments of Intellicall Companies (Aug. 1, 1994); Reply Comments of the Intellicall Companies
Continued on following page

many years. It is no coincidence that this deployment occurred only when private payphone providers entered the marketplace. Competition by pay telephone providers, as elsewhere, generates strong incentives for all market participants to innovate and operate efficiently.

Another key benefit of store-and-forward equipment is that it increases consumer convenience. Consumers are becoming more and more accustomed to, and are now demanding, the ability to make automated calling card and collect calls without a live operator.

I. THE COMMISSION MUST SET ANY BENCHMARK HIGH ENOUGH TO INCLUDE ALL REASONABLE RATES BELOW IT

Intellicall understands the Commission's desire to have automatic rate quotes on every non-sent paid call which exceeds a benchmark. There have clearly been circumstances where consumers have been charged rates which are substantially in excess of any person's zone of reasonableness, and Intellicall has long encouraged the Commission to take dramatic, effective action against those OSPs. In short, Intellicall has favored a "take them out and shoot them" approach.

On the other hand, Intellicall believes it inappropriate to require automatic rate quotes for calls that fall within a range of reasonableness. To require rate quotes on those calls would

Continued from previous page

(Sept. 14, 1994); Comments of the Intellicall Companies
Continued on following page

be punitive to those OSPs. For example, Intellicall does not believe that consumers will actually listen to rate quote information. More often, consumers will hang up and redial via an access code as soon as they hear the beginning of the voice message. Consumers will, in short order, come to believe that OSPs utilizing a voice message for the rate quote are (1) delaying their ability to timely complete their call, and/or (2) charging unreasonable rates. The latter may not be true, if the Commission sets the benchmark too low.

A second benefit of being sure that the benchmark is not set too low is to assure that unwarranted costs are not imposed upon legitimate OSPs. In the context of payphone providers using store-and-forward technology, these providers will face the additional cost of purchasing and installing replacement payphones. It would be unfair to impose these additional costs of payphone purchase on payphone providers whose rates fall within a range of reasonableness. It would both subject them to the "punitive" effect of consumers refusing to use their services, which were reasonably priced, and increase their costs -- a double whammy -- that is undeserved.

Thirdly, the greater the percentage above AT&T's, MCI's and Sprint's rates that OSPs are permitted to charge under the benchmark, the less likely it is that AT&T, MCI and Sprint could

Continued from previous page

Relating to the Petition of NAAG (Apr. 12, 1995).

take coordinated actions to drive the OSPS out of business. For example, if AT&T, MCI and Sprint were all to lower their rates by 20%, and the benchmark were 15%, an OSP pricing at the benchmark would be required to lower its rates by 5% or add the automatic rate quote on each call. Lowering its rates could result in its pricing services below costs. Alternatively, adding the automatic rate quote language both adds costs, and as noted above, would curtail usage. Both have substantial adverse impact, the net result of which would be that the OSP would not long be in business. And their exit would be the direct result of their competitors, who would then be free to raise their rates again.

Intellicall does not yet fully understand exactly what benchmark is reasonable, but it cautions the Commission to be very sure that the benchmark is high enough to assure that all those charging reasonable rates fall below the benchmark and thus do not fall within the rate quote requirement.

II. THE PRESENT MODELS OF STORE-AND-FORWARD PAYPHONES ARE INCAPABLE OF MEETING CERTAIN FCC-PROPOSED RATE QUOTE APPROACHES

A. Introduction

In the *Second NPRM*, the Commission concludes that the cost of BPP would be substantial, and proposes, instead, to (a) establish benchmarks for OSP's consumer rates and associated charges that reflect what consumers expect to pay, and (b) require OSPs that charge rates and/or allow related premises-owner fees whose total exceeds a given percentage above a

composite of the 0+ rates charged by the three largest interstate interchange carriers ("IXCs"), to make certain rate disclosures automatically on every call.

Intellicall wholeheartedly agrees with the Commission's conclusion that BPP should not be mandated. Intellicall, however, believes that certain of the Commission's rate disclosure proposals impose unwarranted costs on certain industry segments and must be revised accordingly. In particular, as explained below, the store-and-forward pay telephones simply are not technically capable of offering the specific per-call automatic rate quote, and there is no feasible way of adding any such capability

Section 64.703(a)(1)⁵ of the Commission's regulations already mandates that OSPs identify themselves audibly before consumers incur any charge for telephone calls. Similarly, Section 64.703(a)(3)⁶ requires that OSPs disclose immediately to consumers their rates upon request, at no charge. These regulations already insure that consumers are provided sufficient information to make informed choices should they choose to make use of the information. Moreover, these regulations allow the consumers to determine, through branding, rate disclosures, and payphone postings, the actual provider of operator services.

⁵ 47 C.F.R. § 64.703(a)(1).

⁶ 47 C.F.R. § 703(a)(3).

Thus, the Commission's underlying objectives, namely, informed consumer choices and carrier identification, are already being met.

Any additional rate disclosure requirements are unnecessary over the long-term, particularly in light of the costs and technical difficulties involved. The increase in dial-around traffic exemplifies this point. Consumers are learning, if more slowly than anticipated, that they have options. Intellicall believes that this learning process is almost complete; callers are exercising their options to dial around the presubscribed carrier. However, to the extent that the Commission wants or feels compelled to accelerate consumer awareness, some form of general rate statement would be a useful tool if the costs do not outweigh its implementation.

B. Description Of Automated System Design

Intellicall's calling card and collect system, known as I*Star, was conceived to take advantage of store-and-forward technology and the efficiencies inherent in that technology. The system was not conceived to have any real-time rating capability. More particularly, because a real time rating capability was neither required from a regulatory standpoint nor necessary from an operational standpoint, the conceptual design and overall

architecture of Intellicall's payphones did not incorporate a rating mechanism for non-sent paid calls within the payphones.⁷

Rather, Intellicall's smart payphones enable automated calling card and collect calls to be placed from the payphone, and be rated off-line, after the calls have been processed. This design allows payphone owners to:

- Manage (view or edit) rate information through an easy-to-use personal computer-based program;
- Rate calls in an efficient batch process; and
- View reports reflecting the results of the rating process.

This approach has several advantages, including:

- Reducing the costs and complexity of the system by allowing the rates to be maintained outside of the payphone, thereby promoting reliability of operations and simplicity of use.
- Making the rates easier to manage because all rating data bases are stored in one place rather than distributed among the owner's network of payphones, which payphones potentially can be spread out across several states.
- Making correction of rating problems easier in that if a rating problem is discovered after the call has been

⁷ Typically, the payphone prompts the patron for the same information a live OSP would collect, and completes the call as a direct-dialed call, creating a billing record in the process. Billing records are later retrieved by the payphone owner remotely from the payphone, rated, and sent off for billing. Call validation is done while the call is being set up by the payphone by calling a validation provider, and communicating via a modem. This approach, thus, has advantages over a traditional OSP in that there is only one leg to each call, thereby reducing the cost of the call.

initially rated, the record can be subsequently re-rated.

- Enhancing rating accuracy that flows from having a centralized rate location (decentralized rating generally translates into acute problems with having multiple, sometimes inconsistent, rating tables).

**C. Automatic Rate Disclosures On Every
Non-Sent Paid Call Poses
Insurmountable Technical and Cost
Impediments**

As smart payphone technology currently stands (per the above description), at the time of the call, the payphone has no information on what the price of a non-sent paid call will be.⁸ As noted previously, this is because, by design, the non-sent paid rate tables and indices are not resident in the payphone. Since the existing coin rates cannot be used to appropriately rate 0+ calls, an entirely new set of comprehensive "look-up" tables would be required to rate 0+ intraLATA, interLATA, and

⁸ As noted above, intelligent pay telephones, such as those manufactured by Intellicall, are designed to provide real-time rating capabilities for coin calls for the very obvious reason of informing users as to initial coin deposit requirements and overtime deposits required for call continuation. Such rates are computed from "look-up" tables that permit calls to be properly rated based on any destination number dialed. These tables take the form of twelve (12) exchange tables (which store an index to a "rate band" for each of 1,000 possible exchanges within an area code) and area code tables (which store an index to a "rate band" for all remaining area codes). Rate band tables store the actual rates for each index, including differentials for distance and time-of-day and provide unique rates for intraLATA, interLATA and interstate calls. Each set of "look-up" tables (and resultant applicable rates) is unique for any phone operating in a specific rate center and obviously must be changed if the phone is relocated in a different rate center. Fully 25 percent of all available payphone memory capacity is devoted to storing these "look-up" tables applicable only to coin rating.

interstate calling card and collect calls with any degree of specificity on a real-time basis (even if only to provide rate quotes prior to initiation of a call) and would require the addition of at least the same memory capacity currently used for coin rating, notwithstanding the additional memory that would be required for operating software necessary to use the data for rate quotes. Thus, in order to implement automatic rate quotes on each and every non-sent paid call, Intellicall would be required to design a costly hardware upgrade, which would have to be made to each payphone. In addition, various software would be required to be developed to use this new information, manage and edit the information, as well as download the information to each payphone. While this theoretically could be done, the changes to Intellicall's product would be so far-reaching that Intellicall would not be able to assure its reliability and efficiency.

For example, because memory in the payphone is limited and, in virtually all cases in Intellicall products, already devoted to other functions, specific rate disclosure would necessitate increasing payphone memory capacity through, among other things, installing an additional "board."⁹ This would be practically infeasible. As important, redesigning the payphones to incorporate functions with which the payphones were not intended

⁹ The "retrofit" is actually more complex in reality. While additional circuitry would indeed be required, any memory expansion would also require interoperability with all the existing components of the system.

to operate, would have a negative impact on overall system reliability and efficiency, much like using a refrigerator as a cooling system in lieu of an air-conditioning system.

In the past, the Commission has been cognizant of, and sympathetic with, the costs potentially to be incurred by its regulated entities. For example, in *Allnet Communications Services, Inc. v. U S West, Inc.*,¹⁰ the Commission noted, in the context of 1+ interstate intraLATA presubscription, that although the Commission could require the LECs to provide dual or multicarrier presubscriptions, other factors such as the significant costs and procedural complexities involved, made 1+ intraLATA presubscription impractical. In a recent decision, the Commission re-affirmed that rationale.¹¹ The Commission's rationale there and in *Allnet Communications* applies with equal force here. The significant associated costs and administrative burdens imposed upon the manufacturers and payphone providers and strongly militate against imposing any specific granular requirement on these entities.

¹⁰ 8 FCC Rcd 3017 (1993).

¹¹ *In the Matter of Allnet Communication Services, Inc. v. Cincinnati Bell Telephone Company, et al., Memorandum Opinion and Order on Reconsideration*, File No. E-93-025, FCC 96-296 (rel. July 16, 1996).

**D. In The Event The Commission Were To Require
Some Form Of Rate Disclosure, The Commission
Should Adopt A Less Granular Approach Or The
Intellicall Proposals Contained Herein**

**1. The Commission's Proposed Alternatives Which Can
Be Implemented**

The Commission properly recognizes that there may be alternatives to the proposed per non-sent call rate disclosure requirement. According to the Commission:

Alternatively, we believe that consumers might receive adequate information for identifying an OSP if that OSP orally disclosed the highest amount that it might charge the caller for a domestic call lasting seven minutes . . . If the OSP believed that this highest rate would unfairly mislead callers, it could also inform the caller of its average rate for a eight-minute call.¹²

Intellicall believes that these two alternatives are more readily implementable from a technical perspective, although implementing them would also, albeit to a lesser extent, require software development installation, and other costs.

The Commission should, however, leave the choice of selecting as between these two alternatives to the provider. Since both these alternatives would achieve the Commission's goals equally, it should not matter which one the provider ultimately selects. Allowing the provider the ultimate discretion would enable the provider to fit his unique needs and capabilities. Moreover, the Commission should give the provider

¹² *Second NPRM*, at 20, para. 35 (emphases added).

the flexibility of changing from one alternative to the other, as he sees fit, so long as the general objective of the Commission is achieved. In other words, once the provider has chosen his rate quote option, he should not be restricted from changing to another option in the future.

In addition to the alternatives which the Commission has proposed, Intellicall recommends two other alternatives. Intellicall believes that these alternatives also address the Commission's goals, while at the same time increasing the number of choices from which providers can select to address the Commission's general objectives.

One alternative would be to have a set of average per-minute rates for each possible destination class of calls (i.e., intraLATA interstate and interLATA interstate). For each destination class, a price would be stored in the payphone's memory which would reflect the average price per-minute for calls within that destination class. Thus, when a user makes a call, the payphone would, for example, play the following message:

*The average per-minute price for this class of call is
[rate] cents.*

Per-minute averages would be calculated by determining the average price per-minute for each band (including any applicable surcharges) for a three-minute (or eight-minute) call, and averaging those for all bands within that destination class. Average rates would be provided for both calling card and collect calls. This option is similar in concept to the Commission's second alternative.

A second alternative would be to quote the maximum rate (initial and additional periods) for a particular destination class of calls. This would require slightly more memory usage, but Intellicall believes that this would still be achievable within the limited memory capability of store-and-forward phones. Under this alternative, the following message would, for example, be played to the caller:

Your call will cost no more than [rate] cents for the first [number of minutes] minutes and [rate] cents for each additional minute.

This approach, which is similar to the Commission's first alternative, has the advantage of giving the caller a little more detail.

The rate quotes would be played automatically for both options. The caller need not press any key to hear the message.

Although these options are available should the Commission require some type of rate quotation, they nevertheless have certain disadvantages. For example, they are cumbersome to manage (this is also true of the two alternatives proposed by the Commission). Differences in rating based on location and tariff changes would have to be manually managed by the payphone owner, which could lead to differences between the actual rates charged by the rating system and those quoted by the payphone. ¹³ Thus,

¹³ This would make it practically impossible, for example, to move a payphone from one location to another (particularly across state lines) without making the necessary modifications to the rating mechanisms. Keeping track of

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for these alternatives to be successful, strict coordination and careful planning would be required. Despite the limitations of, and difficulties with, implementing these options (including the Commission's proposed alternatives), however, they are nevertheless more feasible and practical than the Commission's proposed per non-sent paid call rate quotation requirement.

As another alternative, Intellicall believe that APCC's initial proposal, as modified below by Intellicall, would adequately address the Commission's consumer protection concerns. That proposal as modified would require OSPs that charge an above-benchmark rate to play the following message:

The rates charged by this provider exceed benchmarks established by the government. Call the posted toll-free number to obtain rate information.

Intellicall submits that this mechanism can be accommodated by Intellicall's existing technology, at relatively little cost.

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which phones have (or should have) which rating mechanism would also pose significant inventory problems.

III. CONCLUSION

For all the foregoing reasons, the Intellicall Companies respectfully request that the Commission reject the rate disclosure requirement proposed in the *Second NPRM*.

Respectfully submitted,

THE INTELICALL COMPANIES

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Dated: July 17, 1996

DECLARATION

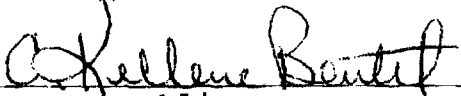
B. REID PRESSON, being duly sworn according to law,
upon his oath deposes and says:

1. I am Vice President of the Intellicall Companies,
and am authorized to verify the foregoing Comments on their
behalf.

2. I have read the foregoing Comments, and the
statements made therein are true and correct to the best of my
knowledge and belief


B. Reid Presson
Vice President

Sworn and subscribed before me
this 17th day of July, 1996.


Notary Public
My Commission Expires

